

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CRYSTAL MONTGOMERY,

Plaintiff,

-v-

NEW YORK PRESBYTERIAN HOSPITAL,

Defendant.

23 Civ. 9201 (PAE) (OTW)

OPINION & ORDER

PAUL A. ENGELMAYER, District Judge:

On October 19, 2023, plaintiff Crystal Montgomery, *pro se*, filed this employment discrimination action against defendant New York Presbyterian Hospital. Dkt. 1 (the “complaint”). Currently pending is defendant’s January 12, 2024 motion to dismiss the complaint, pursuant to Federal Rule of Civil Procedure 12(b)(6). Dkt. 17 (the “motion to dismiss”).

On January 16, 2024, the Court referred the motion to United States Magistrate Judge Ona T. Wang. Dkt. 21. On August 13, 2024, Judge Wang issued a Report and Recommendation to this Court, recommending that the Court grant the motion to dismiss. Dkt. 30 (“Report”). The Court incorporates by reference the summary of the facts provided in the Report. For the following reasons, the Court adopts the Report’s recommendation in its entirety.

DISCUSSION

In reviewing a Report and Recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “To accept those portions of the report to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” *Ruiz v. Citibank, N.A.*, No. 10 Civ. 5950 (KPF), 2014 WL 4635575, at *2 (S.D.N.Y.

Aug. 19, 2014) (quoting *King v. Greiner*, No. 02 Civ. 5810 (DLC), 2009 WL 2001439, at *4 (S.D.N.Y. July 8, 2009)); *see also, e.g., Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).


As no party has submitted objections to the Report, review for clear error is appropriate. Careful review of Judge Wang's thorough and well-reasoned Report reveals no facial error in its conclusions; the Report is therefore adopted in its entirety. Because the Report explicitly states that "the parties shall have fourteen days to file written objections" and that "failure to file these timely objections will result in a waiver of those objections for purposes of appeal," Report at 10, the parties' failure to object operates as a waiver of appellate review. *See Caidor v. Onondaga Cty.*, 517 F.3d 601, 604 (2d Cir. 2008) (citing *Small v. Sec'y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (per curiam)).

CONCLUSION

For the foregoing reasons, the Court grants the motion to dismiss. The Clerk of the Court is respectfully directed to mail a copy of this decision to plaintiff at the address on file, terminate all pending motions, and close the case.

SO ORDERED.

Dated: September 4, 2024
New York, New York


Paul A. Engelmayer
United States District Judge